



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OA-2013-0065; FRL- 9784-1]

Access by EPA Contractors to Information Claimed as Confidential Business Information (CBI) Submitted under Title II of the Clean Air Act and Related to the Nonroad Diesel Engine Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA's Office of Transportation and Air Quality (OTAQ) plans to authorize various contractors to access information which was submitted to EPA under Title II of the Clean Air Act that may be claimed as, or may be determined to be, confidential business information (CBI). Access to this information, which is related to the Nonroad Diesel Engine Program will begin on February 22, 2013.

**DATES:** EPA will accept comments on this Notice through [insert date five days after publication in the Federal Register].

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Kopits, Environmental Protection Agency, 1200 Pennsylvania Avenue, N.W., Mail Code: 1809T, Washington, DC 20460; telephone number: 202-566-2299; fax number: 202-566-2338; email address: [Kopits.elizabeth@epa.gov](mailto:Kopits.elizabeth@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Does this Notice Apply to Me?

This action is directed to the general public. However, this action may be of particular interest to parties who manufacture nonroad diesel engines and equipment and any other parties subject to the regulations found in 40 CFR Parts 89 and 1039.

This *Federal Register* notice may be of particular relevance to parties that have submitted

data under the above-listed programs or systems. Since other parties may also be interested, the Agency has not attempted to describe all the specific parties that may be affected by this action. If you have further questions regarding the applicability of this action to a particular party, please contact the person listed in FOR FURTHER INFORMATION CONTACT.

## II. How Can I Get Copies of this Document and Other Related Information?

### A. Electronically

EPA has established a public docket for this *Federal Register* notice under Docket EPA-HQ-OA-2013-0065.

All documents in the docket are identified in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, such as confidential business information (CBI) or other information for which disclosure is restricted by statute. Certain materials, such as copyrighted material, will only be available in hard copy at the EPA Docket Center.

### B. EPA Docket Center

Materials listed under Docket EPA-HQ-OA-2013-0065 will be available for public viewing at the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20460. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744.

## III. Description of Programs and Potential Disclosure of Information Claimed as Confidential Business Information (CBI) to Contractors

EPA's Office of Transportation and Air Quality (OTAQ) has responsibility for protecting

public health and the environment by regulating air pollution from motor vehicles, engines, and the fuels used to operate them, and by encouraging travel choices that minimize emissions. In order to implement various Clean Air Act programs, and to permit regulated entities flexibility in meeting regulatory requirements (e.g., compliance on average), we collect compliance reports and other information from them. Occasionally, the information submitted is claimed to be confidential business information (CBI). Information submitted under such a claim is handled in accordance with EPA's regulations at 40 CFR part 2, subpart B and in accordance with EPA procedures, including comprehensive system security plans (SSPs) that are consistent with those regulations. When EPA has determined that disclosure of information claimed as CBI to contractors is necessary, the corresponding contract must address the appropriate use and handling of the information by the contractor and the contractor must require its personnel who require access to information claimed as CBI to sign written non-disclosure agreements before they are granted access to data.

In accordance with 40 CFR § 2.301(h), we have determined that the contractors, subcontractors, and grantees (collectively referred to as "contractors") listed below require access to CBI submitted to us under the Clean Air Act and in connection with the nonroad diesel engine program and we are providing notice and an opportunity to comment. OTAQ collects this data in order to monitor compliance with the nonroad diesel engine program and to permit regulated parties flexibility in meeting regulatory requirements through the trading of RINs. We are issuing this *Federal Register* notice to inform all affected submitters of information that we plan to grant access to material that may be claimed as CBI to the contractors identified below on a need-to-know basis.

Under Contract Number EP-W-11-003, Abt Associates, 4550 Montgomery Avenue, Suite 800 North, Bethesda, MD 20814, *and its subcontractor, Engine, Fuel, and Emissions Engineering, Incorporated (EF&EE), 3221 Fitzgerald Road, Rancho Cordova, CA 95670*, is providing support to EPA's National Center for Environmental Economics (NCEE) on a retrospective analysis of costs of selected regulatory actions, evaluating the degree to which ex-ante costs and ex-post costs of regulations differ and exploring possible reasons for cost divergence where it exists, that involves access to information claimed as CBI, including the sales projections provided by nonroad diesel engine manufacturers in their certification applications. Access to data, including information claimed as CBI, will commence on February 22, 2013, and will continue until September 10, 2013. If the contract is extended, this access will continue for the remainder of the contract without further notice.

Parties who wish further information about this *Federal Register* notice or about OTAQ's disclosure of information claimed as CBI to contractors may contact the person listed under FOR FURTHER INFORMATION CONTACT.

#### **LIST OF SUBJECTS**

Environmental protection; confidential business information

Dated: January 31, 2013.

Al McGartland, Director,  
National Center for Environmental Economics,  
Office of Policy,  
Office of the Administrator.

